MESSAGE

OF

Hon. THOMAS SWANN, Mayor,

In Relation to the City Passenger Railways.

Mayor's Office—City Hall,
Baltimore, June 16, 1859.

To the Honorable the Members of the First and Second Branches of the City Council:

Gentlemen:—

I deem it my duty to invite your attention to the proceedings now going forward under the ordinance to establish Passenger Railways in this city.

In the daily papers of yesterday, I find the following notice:

Notice.—A Book will be opened on the 25th day of June inst., and be continued open for five days, between the hours of 12 and 3 o'clock, P. M., at the Rooms of the City Passenger Railway Co., No. 6 St. Paul street, for the reception of subscriptions to the capital stock of said association, in pursuance of the (seventh) 7th section of an ordinance, entitled "An ordinance empowering Wm. H. Travers, William S. Browning, William DeGoey, Robert Cathcart, Joshua B. Sumwalt, and those who are now or may hereafter become associated with them and their assigns, to build and lay down tracks for a City Passenger Rail-

road on Baltimore street and other streets," approved 28th March, 1859.

Wm. H. Travers,
W. S. Browning,
William DeGoey,
Robert Cathcart,
J. B. Sumwalt.

It will be perceived that in executing the 7th section of the ordinance no proximate estimate of capital has been assumed, and no value fixed for the shares of stock sought to be subscribed. This was not my understanding of the notice required to be given. A liberal and not a technical construction of the ordinance in this particular would seem to be just to all parties. Ninety days were given to obtain proper and reliable estimates of the probable value of the work—and *the cost of the entire system of roads named in the ordinance was the standard of capital stock authorised to be issued.* The shares were expected to have been regulated by *what was known to be the universal custom in all similar enterprises.* As the notice now stands, no one but the large capitalists—looking to the exclusive appropriation of the grant—would venture to respond to the call of the grantees. To this proceeding I enter my most earnest protest.

Some short time since an announcement was made through the public prints, that the Passenger Railways had been commenced in our streets—the ordinance requiring the work to begin within sixty days after its approval by the Mayor.

Having had no communication with the party or parties engaged in the work, I called upon the City Commissioner, to know whether any official interview had been sought with him. That officer informed me that he had not been notified at the time of the commencement of the work, and that it was not only proceeding without his sanction, but in the face of a refusal on his part to sign a paper of specifications which had been prepared by the Chief Engineer, and submitted to him. On the 1st instant I addressed a letter to the original grantees and their securities, a copy of which is herewith annexed, together with all the correspondence had with these gentlemen and others.

To this letter a reply was made by the original grantees, enclosing a letter signed "Gilbert H. Bryson, Chief Engineer."

The letter of H. J. Bayly, City Commissioner, is also annexed, and a letter from Gilbert H. Bryson, in reply to a letter from the Mayor, asking from whom he received the commission of Chief Engineer, and by whom the contracts had been made for the construction of the roads.

The ordinance contains important provisions for the protection of the interests of our citizens. The materials used in the construction of these roads are stipulated to be furnished by Baltimoreans and the work was to have been done exclusively by the labor of our own citizens. It was essential, therefore, to the performance of the duty devolved upon him, that the Mayor should know with whom he was to open official communication in carrying out the requirements of the law.

On the day of the date of the letter from the original grantees, (June 3d,) I received a visit from a gentleman who was introduced to me as Mr. Brock, of Philadelphia. He informed me that he had come to answer any questions, and put me in possession of any information I might require in regard to the Passenger Railways; that he was the person authorized to speak for an association to whom the power of the original grantees had been absolutely transferred; that he and his associates could not recognize the original grantees as having any interest in the road now, that their rights had been parted with; and that in case I desired information, I must seek it from their counsel.

The assignment to which this gentleman referred, I have since procured, on application to the Clerk of the Superior Court for this city, and is in the words following, to wit:

Wm. H. Travers and others—Indenture of Assignment to Lawrence Johnson and others.—This indenture, made this second day of April, in the year eighteen hundred and fifty-nine, between Wm. H. Travers, William S. Browning, William DeGoey, Robert Cathcart, and Joshua B. Sumwalt, of the city of Baltimore and State of Maryland, of the one part, and Lawrence Johnson, Conrad S. Grove, Robert F. Taylor, John Ely, and Jonathan Brock, of the other part, Witnesseth, that for a good and valuable consideration, paid and given by the parties of the second part to the parties of the first part hereto, the said William H. Travers, William S. Browning, William DeGoey,

Robert Cathcart, and Joshua B. Sumwalt, have granted, assigned and transferred all the rights, privileges, powers, franchises and easements, which the said parties of the first part hereto have, claim or may use, employ and exercise, under and by virtue of an ordinance of the Mayor and City Council of Baltimore, entitled "An ordinance empowering William H. Travers, Wm. S. Browning, William DeGoey, Robert Cathcart, Joshua B. Sumwalt, and those who are now or may become associated with them and their assigns, to build and lay down tracks for a Passenger Railroad on Baltimore street and other streets." Witness our hands and seals:

Witness: T. H. Gardner, as to Wm. H. Travers,
T. H. Gardner, " Joshua B. Sumwalt,
T. H. Gardner, " Wm. DeGoey,
T. H. Gardner, " Wm. S. Browning,
T. H. Gardner, " Robert Catchart.

State of Maryland, City of Baltimore, Set.

I hereby certify that on the fifth day of April, A. D., 1859, before the subscriber, a Justice of the Peace of the State of Maryland, in and for the city of Baltimore, personally appeared Wm. H. Travers, Wm. S. Browning, Wm. DeGoey, Robert Cathcart, and Joshua B. Sumwalt, and acknowledged the aforegoing Deed or Indenture to be their respective act. In testimony whereof I have hereto subscribed my name as Justice of the Peace aforesaid. Geo. W. Spies, J. P.

Received for record, April 7th, 1859, at 9 o'clock A. M. Same day recorded and examined.

Per Geo. E. Sangston, Clerk.

I hereby certify that the aforegoing is a true copy taken from Liber G. E. S, No. 168, folio 217, &c., one of the Land Records of Baltimore city. In testimony whereof I hereunto set my hand and affix the seal of the Superior Court of Baltimore city, on this 11th day of June, 1859.

SEAL.

Geo. E. Sangston, Clerk.

In connexion with this arrangement, I was informed by the original grantees, that a bond in the penalty of $50,000 had been given, "that the control and management of the enterprise should be confided, until the completion of the road, to the par-

ties named in the ordinance, and that during its continuance in the hands of the Company, or until the city should purchase the interests of the Company, under the direction and management of citizens of Baltimore exclusively."

Of this bond I have received no copy—and am unable to express any opinion as to its legal bearing upon the rights of the parties. A question had arisen, I was informed, as to its validity, on account of some informality in the date.

I was also informed, by the original grantees, that articles of association had been agreed upon and formed a part of the arrangement, but that up to the date of my interview this paper had not been executed by the Philadelphia association. That no copy had been kept of these articles, although it was thought that a Court of Chancery would enforce their execution.

It will be seen, therefore, that a serious misunderstanding has sprung up between the original grantees and certain parties, residents of Philadelphia, who claim to have become purchasers "for a good and valuable consideration," of all the powers conferred by the City Council under the ordinance. While on the one hand the original grantees assured me of their intention to carry out in good faith all the provisions of their contract with the city, those to whom their rights had been assigned denied the authority of these parties, and announced their determination not to open books in accordance with the requirements of the 7th section of that act.

The general provisions of the ordinance, according to my construction of their true and only intent, were believed to be most advantageous to the city—placing her in a favored position compared with other cities where street railways had been introduced.

My understanding of this ordinance had been, that the legislative sanction would be required to whatever was done, looking to an act of incorporation hereafter, and that the grantees embarking in the enterprise would do so with a full view of the paramount power of the Legislature. At the same time I had not the slightest doubt that the Legislature would have sanctioned what the city had done, provided the ordinance had been carried out in all its provisions.

My duty, as the executive head of this city, requires that I should see to the faithful execution of the laws; and I deem it proper to apprise you of my construction of this ordinance.

The ordinance, as it now stands, rests upon the *future action* of the Legislature. It was never supposed by me that the Legislature had no power in the premises; nor did I entertain the idea that the measures proposed and authorized by the Council, so far as the City had the power, would be left without a reference to that body. The grantees accepted the ordinance, it must be presumed, with a full understanding of its risks and responsibilities.

The main and leading feature of the ordinance, and the one upon the faith of which, so far as the protection of our people was concerned, I was induced to give it my sanction, was that providing for the opening of books within ninety days after its approval by the Mayor. The grantees were required to commence operations within sixty days; but as more time might be needed in making arrangements for the whole work, and ascertaining the probable cost of the same, and the amount of capital proper to be assumed, the limit for opening the books was extended to *ninety* days. The 7th section of the ordinance is in the following words, viz:

Sec. 7. "And be it enacted and ordained, That the said association shall, after the passage of this ordinance, cause a book to be opened in this city, for the purpose of receiving subscriptions to the capital stock of said City Railways, and the subscriptions to the same from such persons as may wish in their own right to become stockholders therein; and said books shall be opened for the purpose within ninety days from the passage of the ordinance, and its approval by the Mayor, and shall be kept open for five days; and the said association shall give notice of the time and place of opening said books, in all the daily newspapers of this city, ten days previous thereto, and in the event of more stock being subscribed for than said Company are authorized to issue, the same shall be divided *pro rata* to each subscriber."

The leading features incorporated in the section above referred to, are not without precedent. In 1804, an association was formed by the president and directors of the Union Bank of Maryland—and the capital stock, amounting to $3,000,000, subscribed for under the articles of association. The president and directors were chosen without authority from the Legislature.

In the subsequent application to the Legislature, it was stated that a voluntary association had been formed to carry on banking, &c., and an act of incorporation prayed for.

In responding to this application it may be proper to remark that the president and directors chosen under the articles of association were continued in office. In the same year the Union Insurance Company formed a voluntary association in like manner, before application was made to the Legislature, and the whole capital of the company subscribed for in advance.

At a more recent date, the Baltimore Water Company was organized, and I am informed, obtained subscriptions to its capital stock in advance of any authority from the Legislature, which was subsequently applied for and granted to them. In all these instances, and others that might be referred to, the parties did substantially, without hindrance or violation of law, what the city is now claiming.

By this 7th section it will be perceived that any citizen of Baltimore might at the proper time, have become a subscriber to the company authorized to be formed; and that when the capital was made up, every individual subscriber would have had a right to participate in the organization of the company proposed to be chartered by the Legislature. The terms of this provision are believed to be sufficiently explicit. They contemplated the formation of a preliminary company, into whose hands the whole management of the work would of necessity fall, when it was rumored that a transfer of all their rights had been made by the grantees, to persons elsewhere, it occurred to me that the 7th section of the ordinance would replace the power in the hands of our citizens, should they be disposed to exercise it. Nothing could have been more explicit. It was provided that ten days notice should be given in all the daily papers of this city, to afford information to the largest number, as to the time and place for opening books, and further, that these books should be kept open *five* days, so as to allow an opportunity to every one so disposed to come in and subscribe to the capital stock.

It was the purpose of the Council, so far as I was informed, to vest the right to build these roads, as well as their subsequent control and management, in the hands of the people of Baltimore. Whether the capital was obtained at home or abroad,

was a matter of little consequence. The requirements of the ordinance could not be complied with in part only, without a violation of the whole contract. A refusal to open books is virtually to create a monopoly for the benefit of a few individuals, which surely your honorable body never intended. If it be true that the opening of books under this ordinance is illegal, without Legislative sanction, as charged by the Philadelphia assignees, then it may be equally true that no grant to lay down railway tracks in our streets can be sustained, without a resort to the same authority. The grant, as it now stands, *depends for its vitality upon the good will of our citizens, and the future sanction of the Legislature.* It would be unreasonable to suppose that an association from abroad could come here, and legally buy up and appropriate to themselves a grant to occupy our streets, in the face of the express stipulations of the 7th section of this ordinanne.

It would have been time enough to have placed the control of these railways in the hands of such an association, when an opportunity had been afforded to our own citizens to decide whether they desired to part with the power, which the ordinance had expressly reserved for their benefit.

I assume, then, for your consideration,

1. That the ordinance approved March 28th, is in the nature of an equitable agreement resting upon mutual obligations, and the good will of the people of this city.

2. That the absolute transfer by the original grantees, before the commencement of the work, to an association in Philadelphia, is contrary to the spirit and intention of the ordinance.

3. That the original grantees have no power to open books, having transferred all their rights and powers under the ordinance to a Philadelphia association.

4. That the Philadelphia association took the deed of transfer, with its risks and responsibilities; and by a refusal to open books, have forfeited all claim upon the city.

5. That the Legislature will not grant a charter of incorporation, in view of the facts herein set forth.

It is with regret that I feel it incumbent upon me to make this communication to your honorable body; and to express the opinion, after what has transpired, that the Legislature will

feel reluctant to give validity to a contract with an association, never contemplated by the ordinance; and the Mayor and City Council it may be are already absolved from obligations, which it was my wish and intention to see carried out in the most liberal spirit, and to the entire satisfaction of all concerned.

With this explanation, I respectfully ask a reference of this whole subject to a joint special committee of the two Branches of your honorable body, with instructions to investigate the facts of the case, and inquire whether any responsibility attaches, in the events of a refusal on the part of the city to recognize farther proceedings, under this ordinance: and whether the action of those claiming the control of the grant, does not relieve the city from all obligation to continue in them the right to construct a system of passenger railways in her streets.

With great respect,

Your obedient servant,

THOS: SWANN, *Mayor.*

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DOCUMENTS

IN RELATION TO THE

CITY PASSENGER RAILWAYS.

[Copy.]

MAYOR'S OFFICE—CITY HALL,
Baltimore, June 1st, 1859.

To Wm. H. Travers, Wm. S. Browning, Wm. DeGoey, Robert Cathcart, and Joshua B. Sumwalt, Esqrs.:

GENTLEMEN:—

Having seen in the public papers that a commencement had been made in the construction of the City Railways, lately authorized by the Council, I yesterday morning repaired to the spot, in company with the City Commissioner, and found that a portion of the street had been taken up, and active preparations going forward towards the accomplishment of the work.

You will observe, by reference to the ordinance of the City Council, that this work was authorized to be done under the supervision of the City Commissioner.

Up to this time no communication has been had with the Mayor; no company organized, so far as I am informed, and no steps taken, by persons authorized to act, to ascertain the views of the city.

Viewing this proceeding as altogether at variance with the terms of the ordinance, I shall feel it my duty to interpose, unless the provisions of the same are strictly complied with.

With great respect,

Your obedient servant,

[Signed,] THOS: SWANN. *Mayor.*

[A copy of this letter sent to the bondsmen.]

[Copy.]

MAYOR'S OFFICE—CITY HALL,

Baltimore, June 3d, 1859.

To Wm. H. Travers, Wm. S. Browning, Wm. DeGoey, Robert Cathcart and Joshua P. Sumwalt, Esqrs.:

GENTLEMEN:—

Referring to my letter of the 1st inst., I beg to know at what time, I am to receive an official reply to that communication?

Very respectfully,

Your obedient servant.

[Signed,] THOS: SWANN, *Mayor.*

[Copy.]

BALTIMORE, June 3d, 1859.

Honorable Thomas Swann, Mayor, &c.:

DEAR SIR:—We have received your communications of the 1st and 3d inst., and in reply, beg leave to say that it is our intention, fully to comply with the provisions of the ordinance, passed by the City Council, and approved by your Honor, in relation to the construction of a City Passenger Railway.

It has been our effort so far, as it shall be for the future, to comply with all requisitions of the contract we have made with the city.

In pursuance of the 2d section of the ordinance, we sent the enclosed communication to the City Commissioner, to which we had hoped before this to have received a written response, as we had learned from the Commissioner himself, verbally, that so far no objection had been taken on his part to the proceedings of the company.

In regard to one of the sections of the ordinance there is some

difficulty, as to the manner only in which its terms are to be met. This settled, (which we have no doubt will be done during to-morrow,) we think that there can occur no trouble to give alarm either to the Mayor and City Council who have granted, nor to the community, who are to receive the benefits of the City Passenger Railway.

We only ask the indulgence and protection which we are sure your honor is willing to extend to us, to fulfill to the utmost extent all the obligations we have incurred in regard to this important public improvement.

Very respectfully,

Your obedient servants,

[Signed.] WM. H. TRAVERS,
WM. S. BROWNING,
ROBERT CATHCART,
WM. DEGOEY,
J. B. SUMWALT.

[Copy.]

BALTIMORE, May 11, 1859.

Hamilton J. Bayly, Esq., City Commissioner:

DEAR SIR:—As Chief Engineer of the City Passenger Railway Company, I beg to submit to you herewith a pattern of the rail to be used on its railway, together with the form of the contract and specifications to be entered into by the parties undertaking to furnish work and materials.

If approved by you, I will thank you to say so in writing, if otherwise, to let me know in what particulars you desire a change.

Yours respectfully,

[Signed,] GILBERT H. BRYSON,
Chief Engineer.

[Copy.]

MAYOR'S OFFICE—CITY HALL,
Baltimore, June 4th, 1859.

To Wm. H. Travers, Wm. S. Browning, Wm. DeGoey, Robert Cathcart and Joshua B. Sumwalt, Esqrs.:

GENTLEMEN:—

I have received your letter of yesterday's date, in reply to my communications of the 1st and 3d instant.

In stating to you that no official notice had been given to the City Commissioner, of the commencement of the City Passenger Railways, I did so upon the authority of that officer. The communication of the Chief Engineer, a copy of which you have sent me, was not such a notice as the city had a right to expect. There had been no notification of any authorized company to proceed with the work, nor did the City Commissioner know by whom he was appointed, or how far to treat, *as official*, the letter of the Chief Engineer. Besides, the object of the communication appears to have been primarily to ascertain his opinion in regard to the form of rail to be adopted, and certain specifications in regard to the construction of the work, the latter of which he refused to have any thing to do with, for the simple reason that it transferred his supervision to another person, depriving him of all power under the ordinance. In the face of this refusal on the part of the City Commissioner, and with no communication with the Mayor of the city, the road has been located and the streets broken.

Without expressing any opinion as to what has been done, I will state frankly my surprise that some communication had not been had with the Mayor, especially in view of the many rumors in circulation in regard to the sale of the privilege conferred by the ordinance, by the original grantees—to place him in possession of all the facts in reference to the organization of the company, and the parties with whom he was officially authorized to communicate.

This view will be the more readily appreciated, when I inform you that I was waited upon yesterday by Mr. Brock, of Philadelphia, who said that he had come to answer any questions, and put me in possession of any information I might require in regard to the Passenger Railway; that he was the person authorized to speak for a company, to whom the whole power of the original grantees had been transferred; that he could not recognize the original grantees as having any connection with the construction of the roads, now that their rights had been parted with—that in case I wished information in regard to their intentions, I must seek it from their counsel. I will do Mr. Brock the justice to say, that he announced his intention to carry out in good faith and in the most liberal manner, the terms of the ordinance.

Of course I could not recognize this *new* company or their representative, as standing in any official relation to the city, and I so informed Mr. Brock. Your letter of yesterday assuring me of "your intention fully to comply with the provisions of the ordinance," &c., &c., leaves me to infer that the contract has not passed out of the hands of the original grantees. It is proper, however, that you should be informed, in order to a full exposition of the whole subject, that Mr. Brock, as the authorized representative of this new association, informed me, that it was not their intention to open books in accordance with the 7th section of the ordinance, their counsel having advised them that it could not be legally done.

I make this communication in order to invite such explanations as you may deem proper, and due to the original grantees in this aspect of the case.

With great respect,

I am, your obedient servant,

[Signed,] THOS: SWANN, *Mayor.*

City Commissioner's Office,
Baltimore, June 4, 1859.

To the Honorable Thomas Swann, Mayor, &c.:

Sir:—You this day requested me to inform you whether the report that I had received notice from the Passenger Railway Company of their intention to commence work was correct, or not,

I respectfully reply, that on the 11th day of May, at the request of a gentlemen connected with the Railway Company, I visited the office of the said company, in relation to some business connected therewith—I there met several of the Directors, one of whom, handed me a paper which he requested me to sign, stating at the same time that it was necessary that the contract for the building of the road should be consumated before two o'clock of the day herein named. The paper to which I was asked to sign my name, was *a printed form of certain Articles of Agreement without date or signature*, of any kind or character whatever. I was also handed a letter, signed by "Gilbert H. Bryson, Chief Engineer," of which the following is a copy:

BALTIMORE, May 11, 1859.

Hamilton J. Bayly, Esq., City Commissioner:

DEAR SIR:—As Chief Engineer of the City Passenger Railway Company, I beg to submit to you, herewith a pattern of the rail to be used on its railway, together with the form of the contract and specifications to be entered into by the parties undertaking to furnish work and materials.

If approved by you I will thank you to say so, in writing, if otherwise, to let me know in what particular you desire a change.

Yours respectfully,

[Signed,] GILBERT H. BRYSON,
Chief Engineer.

I expressed my opinion in reference to the rail, after which I left the office with the printed form of the "Articles of Agreement," and the Bryson letter in my possession, stating that I would examine them. I did so, and determined to return the printed form without my signature, which I did in person, delivering it to the parties from whom I received it.

I refused to sign the paper referred to for many reasons, one of which was, that I did not consider that I had a right to sign a document which would not only have transferred my right and duty to supervise the construction of the road to the Chief Engineer of the same, but would have placed the whole matter in the hands of one from whose decision in any matter of dispute or difference arising out of the performance of the work, there would have been no appeal. I refer to the following section of the Articles of Agreement:

"And it is mutually agreed and understood, that the decision of the Chief Engineer aforesaid, shall be final and conclusive in any dispute which may arise between the parties, to this agreement relative to or touching the same."

To this section I had serious objections, and I did not, as I before said, consider that I had a right to sign a paper which would have placed the whole matter in the hands of the Chief Engineer of the *road*, without at least consulting the "joint standing committee on highways," together with whom I have been directed by ordinance to supervise the construction of the same. It also occurred to me, that it was the duty of the Managers of the Railway Company, to have consulted me before the

adoption of the Articles of Agreement presented for my signature, and not after they had determined upon.

I was under the impression that a joint meeting of the parties concerned, namely the Managers or Directors of the road, the Chief Engineer, the committee on highways and myself would have been held for the purpose of coming to an understanding as to the time of commencing the work, the mode of proceedings, the character and quality of the materials to be used, &c., and it would have afforded me pleasure to have met the parties referred to, and assisted them as far as I had a right to do under the ordinance.

A meeting of the kind has never been held, nor a proper understanding had as far as I know. I have therefore, taken no action in the premises, except such as is herein referred to, simply reserving the right to supervise the construction of the road in conjunction with the "joint standing committee on highways" whenever the same shall be commenced in accordance with the terms of the ordinance authorizing the same.

Respectfully submitted,

[Signed,] H. J. BAYLY,
City Commissioner.

[Copy.]

BALTIMORE, June 4th, 1859.

Hon. Thomas Swann, Mayor, &c.:

DEAR SIR:—We have received yours of this date, and respectfully in reply say, that it will give us great pleasure to call on you on Monday next, at 2 o'clock P. M., to answer the communication which has just been handed us.

Very respectfully, &c.,

[Signed,] WM. H. TRAVERS,
WM. S. BROWNING,
ROBERT CATHCART,
J. B. SUMWALT.

[Copy.]

BALTIMORE, June 8th, 1859.

Hon. Thomas Swann, Mayor, &c.:

DEAR SIR:—In our interview with you on the 6th inst., we

frankly and unreservedly stated our position and intentions in regard to the City Passenger Railway. At your request we embody in this communication the substance, as far as recollected, of the conversation we had with you on that occasion. We then informed you of our desire to carry out to the fullest extent, all of the provisions of the ordinance granting us the power to construct a City Passenger Railway; and invited your co-operation in doing so, which was promptly and instantly promised. We also expressed the belief, that so far, we had complied with all the requirements of the contract we had made with the city, supposing, as we did, that the notice (a copy of which we have sent you) from the Engineer we had selected to superintend the work, was all that could be asked of us under the 2d section of the ordinance. We further said, what your Honor informed us had been known to you from the beginning, that in order to successfully comply with the ordinance which imposed upon us the necessity—first, to purchase the property of the omnibus proprietors, (and which has been done by an amicable arrangement, and without resort to the arbitration provided for in the 3d section,) and second, to begin the road within sixty days from the passage of the ordinance, we accepted the aid of capitalists from the city of Philadelphia, upon the consideration that the control and management of the enterprise, so far as they were concerned, should be confided, until the completion of the road, to the parties named in the ordinance, and that during its continuance in the hands of the company, or until the city should purchase the interests of the company, under the direction and management of citizens of Baltimore exclusively. For this purpose a good and sufficient bond was taken from the parties thus admitted. This was taken in connection with, and modification of, an instrument signed by the original grantees, and which is of record in the Superior Court of Baltimore City. We also expressed our intention under the 7th section of the ordinance, within the time allowed us to "cause a book to be opened in the city for the purpose of receiving subscriptions to the capital stock of said City Railways," leaving of course the Legislature (since the city can confer no corporate powers,) to determine the privileges of the company thus formed, and fix the amount of its capital stock.

It could not but be expected that with the rivalries that occurred

between the different parties applicants for the right to construct this railroad, and with the exaggerated estimates made of its value, many false rumors should prevail as to the motives and conduct of those who had it in charge. Prominent among these was the allegation that we had parted with our entire interest in the grant for a large consideration, named in one case as the sum of one hundred thousand dollars. This, the greatest and most malicious of the accusations against us, we beg leave to say is wholly and entirely untrue.

While we do not deny that it was our intention (as we presume it was that of all the parties before the Council) to realize the benefits bestowed by the ordinance, it was our design then, as it is now, to do so only by a firm fulfilment of all the requisitions of the contract, to their utmost extent. We must claim the privilege of saying in this connection also, that we are governed in our action greatly by the consideration that the expenditure of several hundreds of thousands of dollars in our midst, must inure to the advantage of large numbers of our fellow-citizens, to whom employment would be given both in the construction of the work, and the furnishing of the necessary materials. This we believe was the purport of the somewhat lengthy interview we had with your Honor upon the subject of the contract which the Mayor and City Council had given us to construct a City Passenger Railway.

Very respectfully,

Your obedient servants,

[Signed,] WM. H. TRAVERS,
WM. S. BROWNING,
ROBERT CATHCART,
WM. DEGOEY,
J. B. SUMWALT.

[Copy.]

MAYOR'S OFFICE—CITY HALL,
Baltimore, June 10th, 1859.

To Wm. H. Travers, Wm. S. Browning, Wm. DeGoey, Robert Cathcart and J. B. Sumwalt, Esqrs.:

GENTLEMEN:—

I have received your letter dated the 8th inst. I am greatly

supprised at the misapprehension into which you have fallen in regard to your conversation with me.

Mr. Thompson was present at my request, and has made a memorandum of the same. I know nothing about your plans or those of your associates, or any one else under the ordinance, never having spoken a word to any member of your association during the pendency of the ordinance in the City Council. If I had said to you in the interview, that I had known from the beginning, what you have stated, I should have said what I had no knowledge of in any shape or form.

I recollect making the remark, that I never cared where the capital to build the Passenger Railway came from; but further than this, I certainly did not mean to be understood, as claiming any knowledge of what was proposed to be done by you.

When it was announced that a transfer had been made to a Philadelphia association, I expressed deep regret, and have continued to do so to every one with whom I have conversed up to this time.

In order that there may be no further misapprehension, in regard to what occurred at our interview, I enclose herewith a memorandum of Mr. Thompson, which he is ready to confirm by affidavit, if necessary.

Very respectfully.

[Signed,] THOS. SWANN, *Mayor.*

MAYOR'S OFFICE—CITY HALL,
Baltimore, June 6th, 1859.

Minute of an Interview between the Mayor and Messrs. Travers, Cathcart, Browning and DeGoey.

Mr. Travers assured the Mayor of his desire to carry out the ordinance in good faith—and declared his purpose and that of his colleagues to open books—in disregard of any action of the Philadelphia association, and would relinquish the grant to the City Council, rather than the provisions of the 7th section should be violated. Stated that the grantees had never disguised the fact that they expected to get assistance from capitalists in Philadelphia. [The Mayor replied that it was a matter of indifference to him where the capital came from.]

Admitted that a transfer had been made to the Philadelphia

association, but stated that they had taken a bond in a penalty of $50,000, guaranteeing to the original grantees the control and management of the road, and the appointment of all the employees with the exception of the treasurer; that it was claimed by the Philadelphia parties that the bond was defective in date.

Had preparéd articles of association, which the Philadelphians had corrected and promised to sign, but they had neglected to do so—thought a Court of Chancery would interfere. Had retained no copy of the articles of association; but could recollect their purport.

Was willing to co-operate with the Mayor to the utmost extent in compelling a compliance with the ordinance.

The Mayor suggested to Mr. Travers that he had better make a communication in writing, in reply to his official letter, which he promised to do.

W. THOMSON,
Secretary to the Mayoralty.

MAYOR'S OFFICE, June 9th, 1859.

To Gilbert H. Bryson, Esq.,

SIR:—In a communication addressed to the City Commissioner dated May 11th, 1859, you speak "as Chief Engineer of the City Passenger Railway Company."

Will you do me the favor to inform me from whom you hold your commission as Chief Engineer; by whom the contracts are made for the work which you are called to supervise; whether a company has been organized, and to whom you are accountable as the official head of said company?

With great respect,
Your obedient servant,
[Signed,] THOS: SWANN, *Mayor.*

BALTIMORE, June 9th, 1859.

Honorable Thomas Swann, Mayor
of the City of Baltimore:

SIR:—In answer to your communication of this morning, I state that I do not hold a *commission* from any one as Chief Engineer of the City Passenger Railway Company.

In order to the proper construction of the railway, it was of course necessary that engineering should be done to a considerable extent by some competent person. I was selected as Chief Engineer. Of course it was, and is understood by me, that the railway is to be built under the supervision of the City Commissioner and joint standing committee on highways, as required by the ordinance.

The contracts were made, I suppose by the assignees of the grant as proprietors of the railway, with the respective contractors; but as my duties as engineer relate entirely to the matter embraced in the specification, I cannot say from my own personal knowledge by whom the contracts were made.

I do not know that any *company* has been formed in the sense in which you use that word in your communication.

The phrase "City Passenger Railway Company" as used by me was intended as a description merely of the assignees of the grantees and nothing more.

I know of no official head of said company. I am accountable I presume to the assignees of the grant as proprietors of the railway.

Respectfully yours,

GILBERT H. BRYSON.

BALTIMORE, June 13th, 1859.

Honorable Thomas Swann, Mayor, &c.:

DEAR SIR:—Your note of the 10th inst., containing a memorandum of the Secretary to the Mayoralty of a conversation between yourself and the grantees of the City Passenger Railway has been received. That there should be some discrepancies in our recollections of the minutiæ of an interview which lasted, we believe, over an hour, is not surprising, although we greatly regret it.

The memorandum of the Secretary to the Mayoralty is in many respects entirely correct, but, in some important particulars, he has, we confidently believe, failed to remember its purport. The statement of the Secretary, (doubtless for the purpose of convenience only) refers the conduct of the whole conversation to one of the grantees (Mr. Travers,) who it was said, was authorized to represent the whole association; whereas, it

will be remembered that the remark "that the bond taken to secure the control and management of the road was claimed to be defective by the Philadelphians," was that of Mr. DeGoey alone, and that the other grantees immediately disclaimed any knowledge that any such claim had been asserted.

The Secretary is also at fault in his recollection that *we* "had prepared articles of association which the *Philadelphians* had corrected." The reverse is the truth—*they* prepared them, and *we* corrected them.

So far as relates to the information which we have said was in possession of your honor, viz: That the capital was to be secured in part from Philadelphia, we have only to say, that it is still our impression that when we announced that we had "never disguised the fact that they (the grantees) expected to get assistance from capitalists in Philadelphia," your honor responded that you knew the fact. We still do not deem the variance of recollection of so much importance since your honor has declared that it was "a matter of indifference to him (you) where the capital come from." With these corrections we have no objections to the memorandum of the Secretary.

Very respectfully,

Your obedient servants,

WM. H. TRAVERS,
WM. S. BROWNING,
WM. DeGOEY,
ROBERT CATHCART,
J. B. SUMWALT.

Mayor's Office, June 20th, 1859.

This letter was only received this morning, having been left at my dwelling, and mislaid by my servant.

THOS: SWANN, *Mayor.*